

## **ANALYSIS**

An ordinance amending Title 2 - Administration, of the Los Angeles County Code, deleting Sections 2.08.155, 2.08.156, and 2.08.157, and amending Section 2.08.164 to increase the delegated authority of the Chief Administrative Officer ("CAO") to sell surplus county real property. This ordinance also deletes the provisions delegating authority to the CAO to sell property where the estimated value does not exceed \$10,000.00. The ordinance authorizes the CAO to conduct auction sales of properties with appraised fair market value not exceeding \$500,000.00, to utilize an outside vendor to market the property and to conduct the auctions at locations other than the property site or the Board room. This ordinance sets forth procedures governing auction sales and brokerage fees and commissions.

RAYMOND G. FORTNER, JR.  
County Counsel

By  
KATHLEEN D. FELICE  
Senior Deputy County Counsel  
Public Works Division

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(12/06/04) requested

(03/08/05) revised

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Title 2 – Administration, of the Los Angeles County Code, deleting Sections 2.08.155, 2.08.156, and 2.08.157, and amending Section 2.08.164, relating to the delegated authority of the Chief Administrative Officer to sell surplus real property.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**Section 1.** Sections 2.08.155, 2.08.156, and 2.08.157 are hereby deleted in their entirety.

**Section 2.** Section 2.08.164 is hereby amended to read as follows:

**2.08.164 Sale of surplus property - Auction sales; appraised fair market value not exceeding \$500,000.**

A. ~~\$10,001.00 to \$75,000.00 Value.~~ Pursuant to the authority granted by California Government Code ~~Sections 25538.1 and 25539~~, the chief administrative officer is authorized to act on behalf of the board of supervisors in conformity with all applicable laws, concerning the auction sale of an interest in county-owned real property where the appraised fair market value ~~(minimum bid)~~ of the interest to be sold ~~is greater than \$10,000.00 and less than \$75,000.00~~ does not exceed \$500,000.00, regardless of the final selling price. The chief administrative officer is authorized to perform any and all acts, including but not limited to, the marketing of the property and

the execution of deeds, purchase and sales contracts, escrow instructions, and any other documents customarily associated with the sale of real property, provided that the following procedures are followed:

1. The chief administrative officer shall find that the property to be sold is no longer necessary for county or other public purposes and that the appraised fair market value, based on a written appraisal by a licensed real estate appraiser, or certified by a qualified county employee and verified by the chief administrative officer to be his best estimate of fair market value as determined by comparable sales in the area, does not exceed \$500,000.00. The chief administrative officer shall determine the minimum bid, the amount of the nonrefundable deposit, whether payment of the purchase price less the nonrefundable deposit shall be all cash or in deferred payments evidenced by a promissory note secured by a purchase money deed of trust, the schedule for cash payment(s), the term, payments, and interest rate payable under the promissory note, if any, and the other terms and conditions of the sale. The chief administrative officer shall further determine whether to offer a broker's commission in the manner set forth in subsection A.6, below.

2. The chief administrative officer shall execute a notice of and resolution declaring its intention to sell the property (the "notice and resolution of intention to sell") which describes the property and specifies the minimum price and terms upon which it will be sold shall include the minimum bid price, any nonrefundable deposit amount, the payment terms as described in subsection A.1, above, the address and description of the property in sufficient detail for the reader to reasonably identify

the location of the property, the time frame to complete the purchase, whether a broker's commission may be payable to a licensed real estate broker representing a buyer ("buyer's broker") and the amount and rate thereof, any other terms and conditions pertaining to the sale, and the time, not less than three weeks thereafter, and place at which sealed ~~proposals~~ bids to purchase will be received and considered and a call for oral bids made. The auction may be conducted at any location deemed appropriate by the chief administrative officer.

3. The chief administrative officer may elect to utilize an outside vendor, who is a licensed real estate broker, to represent the county (the "representing broker"), who may market the property on behalf of the county and/or perform the auction as the chief administrative officer's duly authorized representative consistent with the provisions of this Section 2.08.164. The selection and hiring of a representing broker shall be in accordance with all legal requirements and all applicable county contracting procedures. Any contract retaining such a representing broker shall specify the fees payable for each act of the representing broker under this Section 2.08.164 and shall require all acts performed by such representing broker to be in compliance with Government Code section 25539 and this Section 2.08.164.

24. The chief administrative officer, or his duly authorized representative (either of which, the "auctioneer"), shall cause the notice and resolution of intention to sell the property to be posted and published in three public places in the county, not less than 15 days before the date of the auction, and shall publish in the county the notice and resolution of intention to sell in accordance with

Government Code Section 255286063. In addition, the auctioneer may, if duly authorized, list the property on a multiple listing service, post for sale signs, purchase advertising space in such newspapers, magazines, and other periodicals, or on the internet, and use such other means of advertising as, in his or her judgment, will publicize the sale to those persons likely to bid for and purchase the property.

35. The ~~chief administrative officer~~ auctioneer, at the time and place specified in the notice and resolution of intention to sell, shall open, examine, and accept proposals and call for oral bids in accordance with Government Code Sections 25530 and 25531 declare all sealed bids which have been received. The highest sealed qualified bid shall be accepted unless a higher oral qualified bid is accepted or the chief administrative officer rejects all bids. A qualified bid is one which conforms to all of the terms and conditions specified in the notice and resolution of intention to sell and which is made by a responsible bidder. A responsible bidder is one who has presented evidence satisfactory to the auctioneer that he or she has the ability to timely pay the nonrefundable deposit required in the notice and resolution of intention to sell. In determining which is the highest sealed qualified bid, the auctioneer shall not subtract therefrom the commission, if any, which the bid provides shall be paid to a buyer's broker. Before accepting any bid, the auctioneer shall call for oral bids. If, upon the call for oral bidding an oral qualified bid is made, for a price exceeding by at least five percent, the highest sealed qualified bid, such highest oral qualified bid shall be

finally accepted or the chief administrative officer may reject all bids. In determining which is the highest oral qualified bid, the auctioneer shall not subtract therefrom the commission, if any, which the oral bid provides shall be paid to a buyer's broker.

6. In the event the chief administrative officer elects to pay a brokerage commission to a buyer's broker, then the potential for payment of such commission shall be provided for in the notice and resolution of intention to sell and shall be paid upon conclusion of the sale in accordance with Government Code sections 25527, 25531, and 25532.

47. Subject to final approval by the board of supervisors, as provided herein,~~the chief administrative officer shall accept the highest qualified bid at the time proposals~~sealed bids are examined and any oral bids are made, or within 10 days thereafter. The chief administrative officer may or shall reject any and all written or oral bids at the time bids are examined and called for and withdraw the property from sale if the chief administrative officer deems such action to be for the best public interest.

58. The chief administrative officer's acceptance of a bid shall be subject to approval of the board of supervisors by resolution authorizing and directing the execution of the deed in accordance with Government Code section 25535.

B. ~~\$10,000.00 or Less. Pursuant to Government Code Sections 25538.1 and 25526.5, the chief administrative officer is authorized to sell any interest in county-owned real property where the estimated value of the interest to be sold does not exceed \$10,000.00, provided the following procedure is followed:~~

1. The chief administrative officer shall find that the property to be sold is no longer necessary for county or public purposes and shall execute a notice of intention to sell the property.

2. The chief administrative officer shall cause the notice of intention to sell the property to be posted in a public place for at least five working days prior to the sale.

3. Unless otherwise ordered by the board of supervisors, the property will be sold to the highest responsible bidder by delivery of a deed executed by the chief administrative officer. At any time prior to the deliver of such deed, the chief administrative officer may reject any and all written or oral bids and withdraw the property from sale.

For auction sales of property for which the appraised fair market value is not in excess of \$500,000.00 and for which the estimated sales price does not exceed \$100,000.00, the chief administrative officer may, in addition to exercising the powers set forth above, and pursuant to the authority granted by California Government Code section 25526.7:

1. Accept the next highest qualified bid in the event the accepted high bidder defaults on the purchase of the property within 90 days following the date the board approves the sale, provided the option to accept the next highest qualified bid is set forth in the notice of resolution and intention to sell and further provided that the sale is approved by the board of supervisors in the manner set forth in subsection A.8, above, within 90 days following the original high bidder's default; or

2. Negotiate a direct sale to any person of any real property which had, in the prior twelve-month period, been subject to auction under the procedures contained in subsections A.1 through A.7, above, and for which no qualified bid was made which was equal to or greater than the minimum bid price set forth in the notice and resolution of intention to sell such property. Any such sale shall be for not less than the minimum bid price set forth in the notice and resolution of intention to sell and shall be subject to final approval by the board of supervisors in the manner set forth in subsection A.8, above.

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